FISCAL NOTE

Bill #: HB0464 **Title:** Expand production and use of ethanol

Primary Sponsor: Bergren, B **Status:** As Introduced

Sponsor signature Date David Ewer, Budget Director Date

Fiscal Summary

	FY 2006 Difference	FY 2007 Difference
Expenditures:		
State Special Revenue	$5,113	$5,113
Revenue:		
State Special Revenue	$5,180	$4,005,180
Net Impact on General Fund Balance:	$0	$0

☐ Significant Local Gov. Impact	☒ Technical Concerns
☐ Included in the Executive Budget	☒ Significant Long-Term Impacts
☐ Dedicated Revenue Form Attached	☒ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

Department of Transportation

1. HB 464 reduces the Alcohol Tax Incentive from 30 cents to 10 cents per gallon, reduces the timeperiod from twenty-four to twelve months that the incentive may be paid, eliminates the time schedules the Alcohol Tax Incentive applicants are required to meet to obtain payments, reduces the maximum an Alcohol Tax Incenitve applicant can receive from $3 million to $1 million a year, the maximum payments ($6 million per year) does not change, and it eliminates the sunset date for the Alcohol Tax Incentive to expire and makes the program permanent.
2. The total maximum incentive payments an applicant could receive would be $6 million.
3. The tax incentive payments must be prorated among all applicants.
4. The bill elminates the requirements for business plans and priority of applicants, requires all gasoline used in motor vehicles operating on public roads to contain 10 percent denatured ethanol (gasohol), makes it unlawful to have methyl tertiary butyl ether (MTBE) in gasohol or gasoline after July 1, 2007, eliminates the contingency where gasohol and biodiesel may be taxed at 85 percent of the present fuel rates if two contingencies are met, and removes the requirements that labels be put on gasohol and biodiesel pumps stating that the tax is 85 percent of the gasoline and diesel tax rates.
5. It is assume there will be two ethanol plants producing in Montana using Montana products in FY 2007.

6. The net effect of this legislation reduces tax incentives (revenue reduction) to an alcohol distributor, thereby increasing net revenue collections to the state.

Department of Labor and Industry

7. Section 10 requires the department to certify that 30 million gallons of denatured ethanol have been produced in Montana. The department is unable to quantify the fiscal impact, if any, of the certification process. The department is unsure whether the certification is for product produced following the effective date of the bill, or if certification may include product produced prior to the effective date of the bill.
8. The department is unable to determine whether HB 464 requires it to determine where or when the 30 million gallons of ethanol was produced, or the origin of the raw materials required to produce the ethanol. As a result, the department is unable to quantify the fiscal impact, if any, related to determining whether ethanol is “produced in the state”.
9. The department assumes that it is not responsible for determining whether some or all of the 30 million gallons of ethanol to be produced in Montana meets any of the criteria established for the producer to claim the tax credit provided for in Section 6.
10. The department would develop a sampling and testing program to ensure that gasoline sold contains 10 percent ethanol by volume, and does not contain more than a trace of MTBE.
11. The department assumes that testing for ethanol can be absorbed in its current gasoline testing and inspection program, and can use current inspectors without additional FTE.
12. Testing for MTBE requires specialized testing by outside laboratories. The department estimates: $50 for laboratory analysis fees; $20 for two collection containers; $2.25 per gallon of product (the sample); and hazardous freight shipping fees at $30 per sample; for a total cost of $102.25 per MTBE testing sample. The department assumes it would test a minimum of 50 samples (sample all refineries in the state plus spot locations) annually to ensure compliance with HB 464. The estimated annual cost for MTBE testing is $5,112.50 ($102.25 X 50 samples).
13. Although the department can absorb the field inspector’s time and travel costs to collect the samples, it cannot absorb the other costs associated with testing for MTBE.
14. The department currently assesses a $16 fee on approximately 14,000 fuel pumps statewide. Pump inspection fees would need to be increased by $0.37 to fund the estimated $5,113 MTBE collection and testing costs (14,000 X $0.37 = $5,180).
15. Section 11 exempts sales of gasoline from blending with ethanol under certain conditions, such as sales to racecourses or off-highway motor sports events. The department assumes that its enforcement of the provisions of Section 11 will be limited, and thus, have limited fiscal impact.
16. The department would incur some rulemaking costs to implement HB 464, which it could absorb.
17. The department would incur some legal costs with respect to the enforcement provisions of HB 464. However, the department cannot predict the costs.

FISCAL IMPACT:

Department of Transportation

	FY 2006 Difference	FY 2007 Difference
Revenues:		
State Special Revenue (02)	$0	$4,000,000

Department of Labor and Industry

	FY 2006 Difference	FY 2007 Difference
Expenditures:		
Operating Expenses	$5,113	$5,113

Funding of Expenditures:		
State Special Revenue (02)	$5,113	$5,113
Revenues:		
State Special Revenue (02)	$5,180	$5,180
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
State Special Revenue (02)	$67	$4,000,067

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
Criminal prosecutions pursuant to HB 464 would be the responsibility of local governments.

LONG-RANGE IMPACTS:
MTBE is a chemical that causes long-term impacts to groundwater and is very expensive to clean up. Eliminating MTBE may reduce expenses to clean up petroleum spill over the long term.

TECHNICAL NOTES:
Department of Labor and Industry
1. HB 464 does not define what constitutes "denatured ethanol produced in the state." As a result, there is some question whether the production or harvesting of the raw materials must occur in Montana, whether the ethanol must be distilled in Montana, and whether the denaturing process must occur in Montana, or whether some production components might be imported from other states or provinces.
2. HB 464 includes several references to gasohol and biodiesel. Consistent throughout the bill is the inference that biodiesel is made by the addition of ethanol to diesel fuel. However, adding ethanol to diesel produces "E-diesel", a product whose feasibility has not yet been established. Biodiesel is a fuel comprised of a blend of long chain fatty acids derived from vegetable oils or animal fats and is designated B-100. B-100 by itself is not normally used as a fuel; it is blended with petroleum based diesel fuel in amounts ranging from 2 – 10 percent to produce a biodiesel blend that can be used as a fuel.
3. The use of the term "gasohol" in HB 464 is an antiquated term that has no definition. A better reference to blends of gasoline and ethanol might be "gasoline-alcohol blend" or "gasoline-oxygenate blend".
4. SB 131 and SB 293 provide similar MTBE restrictions to HB 464. However, SB 131 proposes that the department of environmental quality carry the enforcement responsibilities. Should MTBE testing and enforcement responsibilities fall to the department of environmental quality rather than department of labor and industry, the fiscal impact of HB 464 to the department of labor and industry would be minimal to none.

Department of Transportation
5. This bill does not eliminate the contingency effective date of Chapter 568, Laws of 2001 but only repeals the contingency termination date.
6. The contingency under 15-70-204, MCA, states that if there is an ethanol plant in production and the Department of Transportation has $20 million dollars in working capital, the tax rates on gasohol and biodiesel will be reduced to 85 percent of the present tax. The department estimates that the contingency requirements could be met at the beginning of FY 2008.
7. If the contingencies are not repealed and they are met, Chapter 568 would become effective and there could be a time period of one to six months that the tax on gasohol and biodiesel could be reduced to 85% of the present tax. This would continue until the tax rate would revert to the same tax as gasoline and diesel as specified in the bill.